

Message Text

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TO SECSTATE WASHDC 1159

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E.O. 11652: N/A

TAGS: PBOR, UN

SUBJ: LOS: STATEMENT ON ZONE-LOCKED COUNTRIES

1. FOLLOWING IS TEXT OF STATEMENT GIVEN BY JOHN NORTON
MOORE, VICE CHAIRMAN US SEABEDS DEL TO MAIN COMMITTEE
ON AUGUST 13:

2. QUOTE.

THERE HAS LONG BEEN BROAD AGREEMENT IN THE SEABED COMMITTEE
THAT IF A NEW LAW OF THE SEA TREATY IS TO ACHIEVE GENERAL
ACCEPTANCE OF EXPANDED COASTAL STATE ECONOMIC JURISDICTION
IT MUST ALSO PROTECT FREEDOM OF NAVIGATION AND OTHER NON-
RESOURCE USES. ON PREVIOUS OCCASIONS MY DELEGATION HAS
STATED THAT WE ARE PREPARED TO ACCEPT BROAD COASTAL
STATE ECONOMIC JURISDICTION IN ADJACENT WATERS AND
SEABED AREAS BEYOND THE TERRITORIAL SEA AS PART OF
A SATISFACTORY OVERALL LAW OF THE SEA SETTLEMENT. OUR
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PROPOSALS ON FISHERIES AND THE COASTAL SEABED ECONOMIC

AREA HAVE ALSO INDICATED THE IMPORTANCE OF PROTECTING NAVIGATIONAL AND OTHER NON-RESOURCE USES AS WE EXTEND THIS ECONOMIC JURISDICTION. IN THIS REGARD MY DELEGATION HAS BEEN PLEASED TO NOTE THAT THE IMPORTANCE OF PROTECTING NAVIGATION AND OVERFLIGHT IS EXPLICITLY RECOGNIZED IN THE PRINCIPAL DRAFT PROPOSALS CONCERNING EXPANDED ECONOMIC JURISDICTION WHICH HAVE BEEN INTRODUCED IN SUBCOMMITTEE II. IT IS IMPORTANT, HOWEVER, THAT WE NOT COMPROMISE FREE ACCESS TO THE OCEANS AND OTHER NAVIGATIONAL RIGHTS BY JURISDICTION WHICH, THOUGH NOT EXPLICITLY AIMED AT THOSE RIGHTS, COULD HAVE THE EFFECT OF UNNECESSARILY RESTRICTING THEM. THE DISCUSSION IN SUBCOMMITTEE III HAS INDICATED THAT IF COASTAL STATE JURISDICTION OVER POLLUTION WERE TO INCLUDE GENERAL JURISDICTION OVER VESSEL-SOURCE POLLUTION, THE COMMUNITY INTEREST IN RIGHTS OF NAVIGATION COULD BE SERIOUSLY DAMAGED WITHOUT OFFERING SATISFACTORY PROTECTION TO THE MARINE ENVIRONMENT.

MR. CHAIRMAN, ALL STATES NEED FREE ACCESS TO THE OCEANS. COASTAL STATES USUALLY TAKE THIS ACCESS FOR GRANTED AND THINK OF IT AS A PROBLEM ONLY FOR LAND-LOCKED STATES. BUT THIS BASIC PROBLEM OF ACCESS COULD BE SHARED BY A MAJORITY OF COASTAL STATES IF WE ARE NOT CAREFUL TO SEPARATE THE FORMS OF ECONOMIC JURISDICTION FROM JURISDICTION AFFECTING NAVIGATIONAL RIGHTS AND OTHER NON-RESOURCE USES. THUS A STUDY OF THE ACCESS OF COASTAL STATES TO THE OCEANS SHOWS A SURPRISING POTENTIAL PROBLEM. UNDER A REGIME RECOGNIZING SOME FORM OF ECONOMIC JURISDICTION IN AN AREA AS FAR SEAWARD AS 200 NAUTICAL MILES, APPROXIMATELY 61 COASTAL STATES WOULD HAVE NO ACCESS BEYOND THEIR OWN AREA OF JURISDICTION TO ANY OCEAN ON WHICH THEY FACE EXCEPT THROUGH THE ECONOMIC AREA OF ONE OR MORE NEIGHBORING STATES. THESE 61 COASTAL STATE, COMPRISING A MAJORITY OF ALL COASTAL STATES, WOULD BE TOTALLY "ZONE-LOCKED". AN ADDITIONAL, -) *8;3 :9- 5-) 5-53 297)\$?3 "PARTIALLY ZONE"LOCKED" IN THAT THEY WOULD BE COMPLETELY CUT OFF FROM ACCESS TO ONE OF THE OCEANS ON WHICH THEY FACE EXCEPT THROUGH THE ECONOMIC AREA OF ONE OR MORE NEIGHBORING STATES. AND AT LEAST SIX LAND-LOCKED STATES WOULD, IN ADDITION TO THEIR PRESENT ACCESS PROBLEMS, BECOME PARTIALLY ZONE-LOCKED IN UNCLASSIFIED

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THAT THE STATE OR STATES ON WHICH THEY ARE DEPENDENT FOR NORMAL MARITIME ACCESS WOULD THEMSELVES BE ZONE-LOCKED.

POTENTIALLY ZONE-LOCKED STATES INCLUDE A SUBSTANTIAL NUMBER OF STATES FROM ALL GEOGRAPHIC REGIONS. THERE ARE APPROXIMATELY SIX IN THE AMERICAS, 11 IN ASIA AND OCEANIA, 17 IN EUROPE, AND 27 IN THE NEAR EAST AND AFRICA. THEY ARE PARTICULARLY CONCENTRATED AMONG CONTINENTAL SOUTHEAST

ASIAN STATES, AFRICAN STATES WITH SHORT COASTLINES, STATES BORDERING ON THE CARIBBEAN, STATES BORDERING ON SEMI-ENCLOSED SEAS WHICH DO NOT ALSO HAVE A DIRECT OCEAN COASTLINE, SHELF-LOCKED STATES, THE BALTIC SEA STATES, NORTHWEST EUROPEAN STATES AND THE RED SEA AND PERSIAN GULF STATES. PERHAPS AS A MORE IMMEDIATE INDICATOR OF THE POTENTIAL SERIOUSNESS OF THE PROBLEM, OF THE 90 MEMBERS OF THE SEABED COMMITTEE, MORE THAN HALF ARE POTENTIALLY ZONE-LOCKED. HOWEVER, THE UNITED STATES, AS WELL AS AUSTRALIA, BRAZIL, CANADA, FRANCE, JAPAN, PERU AND THE UNITED KINGDOM, AMONG OTHER COASTAL STATES PARTICIPATING IN THE WORK OF THIS COMMITTEE, ARE NOT POTENTIALLY ZONE-LOCKED. ATTACHED AS AN APPENDIX TO THIS STATEMENT IS A LIST OF THESE POTENTIALLY ZONE-LOCKED STATES.

THE PROBLEM OF THE ZONE-LOCKED STATE ILLUSTRATES IN ITS MOST ACUTE FORM THE DANGER TO THE COMMON INTEREST--AND PARTICULARLY TO COASTAL STATES--IF AN EXPANSION OF ECONOMIC JURISDICTION WERE TO BE ACCOMPANIED BY AN EXPANSION OF JURISDICTION CAPABLE OF AFFECTING NAVIGATION. IF, FOR EXAMPLE, JURISDICTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT WERE TO EXTEND GENERALLY TO VESSEL-SOURCE POLLUTION, ALL SEABORNE COMMERCE AND OTHER MARITIME TRAFFIC TO AND FROM ZONE-LOCKED STATES, COULD, IN EFFECT, BE SUBJECT TO THE CONTROL OF ANOTHER STATE. WHETHER OR NOT THE JUDGMENTS OF THESE NEIGHBORING STATES WERE ALWAYS RELATED TO ENVIRONMENTAL CONCERNS, THEIR JUDGMENTS WOULD NOT NECESSARILY REFLECT THE INTERESTS OF THE ZONE-LOCKED STATE. NOR WOULD SUCH JURISDICTION PERMIT THE ZONE-LOCKED

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STATE TO PARTICIPATE IN THE DECISIONS AFFECTING ITS OCEAN LIFELINE. FOR ZONE-LOCKED STATES, THIS LOSS OF CONTROL WOULD EXTEND TO ALL OCEAN SHIPPING AND OTHER MARITIME TRANSIT TO OR FROM THEIR COUNTRIES, NOT JUST TO THEIR FLAG VESSELS OR VESSELS OWNED BY THEIR NATIONALS. AND AS THE ACCESS PROBLEMS OF LAND-LOCKED STATES HAVE ILLUSTRATED, RELIANCE ON BILATERAL SOLUTIONS WOULD BE A FRAIL REED FOR SO IMPORTANT AN INTEREST.

NATIONAL JURISDICTION EXTENDING TO VESSEL-SOURCE POLLUTION IN A 200 MILE POLLUTION ZONE COULD RESULT IN RESTRICTIONS ON NAVIGATION WHICH WOULD APPLY IN OVER ONE-THIRD OF THE TOTAL AREA OF THE WORLD'S OCEANS. JURISDICTION OVER SUCH POLLUTION ZONES WOULD, TO BE EFFECTIVE, NEED TO INCLUDE AUTHORITY TO PROMULGATE DETAILED REGULATIONS CONCERNING VESSEL CONSTRUCTION AND OPERATION. SUCH REGULATIONS MIGHT INCLUDE DETAILED REQUIREMENTS WITH RESPECT TO, AMONG OTHER THINGS, HULL, FUEL TANK, MACHINERY AND EQUIPMENT CONSTRUCTION. ELECTRONIC UNCLASSIFIED

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AND NAVIGATIONAL EQUIPMENT, THE NATURE OF PROPULSION AND FITTINGS FOR STEERING AND STABILIZING, THE MANNING OF THE SHIP INCLUDING THE NUMBER AND QUALIFICATION OF PERSONNEL, THE MAXIMUM QUANTITY AND METHOD OF STOWAGE OF CARGO, LOADLINE REQUIREMENTS, THE QUANTITIES OF FUEL, WATER AND SUPPLIES, AND THE KINDS OF MAPS, CHARTS AND OTHER DOCUMENTS TO BE CARRIED. SUCH REGULATIONS MIGHT EVEN INCLUDE DETAILED ENFORCEMENT REGIMES PERMITTING FORFEITURE OF SHIP AND CARGO UNDER CERTAIN CIRCUMSTANCES. FOR ZONE-LOCKED STATES, SUCH FAR REACHING REGULATIONS WOULD BE POTENTIALLY APPLICABLE TO ALL THEIR MARITIME ACCESS.

MR. CHAIRMAN, THE THREAT TO ZONE-LOCKED STATES IS ONLY THE MOST ACUTE MANIFESTATION OF THE IMPORTANCE OF FULLY PROTECTING NAVIGATIONAL FREEDOMS IN AN OVERALL LAW OF THE SEA AGREEMENT. WHEREAS ZONE-LOCKED STATES WOULD HAVE NO DIRECT ACCESS TO AN OCEAN WHICH THEY FACE WITHOUT PASSING THROUGH AN ECONOMIC AREA OF ONE OR MORE NEIGHBORING STATES, ALL STATES, COASTAL AS WELL AS LAND-LOCKED, WOULD

BE AFFECTED BY EXPANDED UNILATERAL JURISDICTION CAPABLE OF AFFECTING NAVIGATIONAL FREEDOMS. THE MAJOR SHIPPING ROUTES OF THE WORLD PASS WITHIN 200 MILES OF MANY DIFFERENT COASTAL STATES. THUS, ON A TYPICAL VOYAGE, IT WOULD NOT BE UNCOMMON TO PASS THROUGH THE ZONES OF TEN OF FIFTEEN STATES IF SUCH ZONES WERE PERMITTED. MOREOVER, SINCE MANY VESSELS ARE DESIGNED FOR A WIDE VARIETY OF SHIPPING ROUTES, DURING THEIR PRODUCTIVE LIVES THEY WOULD BE POTENTIALLY SUBJECT TO THE JURISDICTION OF AS MANY AS 120 COASTAL STATES.

THE COSTS OF AN EFFECTIVE INTERNATIONAL SYSTEM FOR THE CONTROL OF VESSEL-SOURCE POLLUTION ARE NOT BURDENSOME. THE UNNECESSARY COSTS, HOWEVER, WHICH WOULD RESULT FROM A WELTER OF CONFLICTING NATIONAL MEASURES MIGHT WELL BE GREAT. IT SHOULD BE EMPHASIZED THAT EXPORTING AND IMPORTING NATIONS AS WELL AS MARITIME STATES WOULD BEAR THESE UNNECESSARY COSTS. SUCH COSTS WOULD BE LARGELY PASSED ON IN THE FORM OF INCREASES IN THE COST OF SHIPPING. THESE COSTS MAY ALSO BE REFLECTED IN REDUCED INTERNATIONAL TRADE OR IN SLOWER GROWTH IN TRADE AS INCREASED SHIPPING COSTS DISPLACE MARGINAL PRODUCTS OR MATERIALS AND ENCOURAGE

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SUBSTITUTION OF MORE EXPENSIVE ALTERNATIVES. MY COUNTRY HAS A CLEAR INTEREST IN AVOIDING THESE UNNECESSARY COSTS AS DO ALL EXPORTING AND IMPORTING COUNTRIES. THE IMPACT ON DEVELOPING COUNTRIES HEAVILY DEPENDENT ON EXPORTS, HOWEVER, COULD BE PARTICULARLY SEVERE.

WE MUST, OF COURSE, MAKE CERTAIN THAT A NEW LAW OF THE SEA AGREEMENT WILL PROTECT THE ENVIRONMENTAL AND OTHER NEEDS OF COASTAL STATES AS WELL AS OF THE INTERNATIONAL COMMUNITY AS A WHOLE. IF THE REAL CHOICE WERE BETWEEN EFFECTIVE ENVIRONMENTAL PROTECTION AND COASTAL STATE POLLUTION JURISDICTION CAPABLE OF IMPEDING THE OCEANS ACCESS OF A MAJORITY OF COASTAL STATE, THE WORLD COMMUNITY WOULD FACE A DIFFICULT CHOICE. FORTUNATELY, ENVIRONMENTAL AS WELL AS NAVIGATIONAL CONSIDERATIONS SUPPORT INTERNATIONAL AS OPPOSED TO PIECEMEAL SOLUTIONS TO THE PROBLEM OF VESSEL-SOURCE POLLUTION. VESSELS, UNLIKE LAND-BASED OR SEABED SOURCES OF POLLUTION, MOVE THROUGHOUT ALL PARTS OF THE MARINE ENVIRONMENT AND THEIR DISCHARGES ARE WIDELY DISPERSED BY WINDS AND CURRENTS WHICH KNOW NO INTERNATIONAL BOUNDARIES. A PIECEMEAL APPROACH IS THEREFORE NOT APPROPRIATE TO THE NATURE OF THE PROBLEM AND WOULD NOT PROVIDE AN EFFECTIVE SOLUTION. ENVIRONMENTAL CONSIDERATIONS MUST PLAY A MAJOR ROLE IN SHAPING A NEW LAW OF THE SEA AGREEMENT. OUR ENVIRONMENTAL DECISIONS, HOWEVER, SHOULD MEANINGFULLY PROTECT THE OCEAN ENVIRONMENT RATHER THAN

MERELY SERVE AN ABSTRACT CONCEPT.

MR. CHAIRMAN, THE THREAT TO THE COMMON INTEREST, INCLUDING PARTICULARLY THE THREAT TO ZONE-LOCKED STATES, SUGGESTS THE IMPORTANCE OF FULLY PRESERVING FREEDOM OF NAVIGATION AND OTHER NON-RESOURCE USES IN ANY EXTENSIONS OF COASTAL STATE ECONOMIC JURISDICTION. BY MAINTAINING A CLEAR DISTINCTION BETWEEN THESE ECONOMIC ISSUES ON THE ONE HAND, AND NAVIGATIONAL AND OTHER NON-RESOURCE ISSUES ON THE OTHER, WE WILL ENHANCE THE CHANCES FOR A WIDELY ACCEPTED LAW OF THE SEA TREATY. THAT, MR. CHAIRMAN, IS AN OBJECTIVE SHARED BY ALL NATIONS.

3. APPENDIX PARTIAL AND APPROXIMATE LIST OF POTENTIALLY ZONE-LOCKED STATES.

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FOR PURPOSES OF THIS ILLUSTRATIVE LIST, A POTENTIALLY "ZONE-LOCKED" STATE IS DEFINED AS A STATE WHICH DOES NOT HAVE DIRECT ACCESS TO AN OCEAN ON WHICH IT FACES EXCEPT THROUGH AN AREA WITHIN 200 NAUTICAL MILES OF ONE OR MORE OTHER STATES. THIS LIST BEARS A HEAVY CAVEAT SINCE ANY BOUNDARIES BETWEEN ANY FORMS OF JURISDICTION EXTENDING AS FAR AS 200 NAUTICAL MILES HAVE, OF COURSE, NOT BEEN DETERMINED.

I. TOTALLY ZONE-LOCKED COASTAL STATES--BY REGION

THE AMERICAS

1. CUBA
2. HONDURAS
3. JAMAICA
4. NICARAGUA
5. PANAMA
6. TRINIDAD AND TOBAGO

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EUROPE

1. ALBANIA
2. BELGIUM
3. BULGARIA
4. DENMARK
5. FEDERAL REPUBLIC OF GERMANY
6. FINLAND
7. GERMAN DEMOCRATIC REPUBLIC
8. GREECE
9. ITALY
10. MALTA
11. MONACO
12. NETHERLANDS
13. NORWAY
14. POLAND
15. ROMANIA
16. SWEDEN
17. YUGOSLAVIA

THE NEAR EAST AND AFRICA

1. ALGERIA
2. BAHRAIN
3. CAMEROON
4. CONGO
5. CYPRUS
6. EGYPT

7. EQUATORIAL GUINEA
8. ETHIOPIA
9. GAMBIA
10. IRAN
11. IRAQ
12. ISRAEL
13. JORDAN
14. KUWAIT
15. LEBANON
16. LIBYAN ARAB REPUBLIC
17. MAURITANIA
18. QATAR
19. SAUDI ARABIA
20. SUDAN
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21. SYRIA
22. TOGO
23. TUNISIA
24. TURKEY
25. UNITED ARAB EMIRATES
26. YEMEN
27. ZAIRE

ASIAN (EXCEPT NEAR EAST) AND OCEANIA

1. CAMBODIA
2. DEMOCRATIC REPUBLIC OF VIETNAM
3. DEMOCRATIC PEOPLES REPUBLIC OF KOREA
4. FIJI
5. MALAYSIA
6. NAURU
7. REPUBLIC OF KOREA
8. REPUBLIC OF VIETNAM
9. SINGAPORE
10. THAILAND
11. WESTERN SAMOA

II. PARTIALLY ZONE-LOCKED COASTAL STATES--THAT IS COASTAL STATES ZONE-LOCKED ON ONLY ONE OF TWO OCEANS ON WHICH THEY FACE

1. COSTA RICA (ATLANTIC ONLY)
2. COLOMBIA (ATLANTIC ONLY, ALTHOUGH OPENING TO PACIFIC WOULD BE ONLY A NARROW CORRIDOR TO THE SOUTH)
3. GUATEMALA (ATLANTIC ONLY)
4. MEXICO (ATLANTIC ONLY)
5. U.S.S.R. (ATLANTIC ONLY)

III. ILLUSTRATIVE LAND-LOCKED STATES ALSO PARTIALLY

ZONE-LOCKED--THAT IS LAND-LOCKED STATES DEPENDENT
FOR THEIR NORMAL TRAFFIC ROUTING ON A TOTALLY
ZONE-LOCKED STATE OR STATES

1. AUSTRIA
 2. CZECHOSLOVAKIA
 3. HUNGARY
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4. LAOS
5. LUXEMBOURG
6. SWITZERLAND

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